

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/086,183 Confirmation No.: 8214
Applicant : Christer O. Andreasson
Filing Date : 02/26/2002
Title : SYSTEMS AND METHODS FOR TRACKING PHARMACEUTICALS
WITHIN A FACILITY
Group Art Unit : 2636
Examiner : Julie Bichngoc Lieu
Docket No. : 706737.38 (formerly 263/292)
Customer No. : 34313

Commissioner For Patents
Mail Stop Amendment
P.O. Box 1450
Alexandria, VA 22313-1450

LETTER

Sir:

This is in response to the Office Action dated January 10, 2005.

Submitted herewith is a 37 CFR 1.131 declaration by the inventors of the present application, along with Exhibits, showing conception of the invention well before the effective filing dates of the Martucci published application having an original filing date of January 11, 2002, and a Bui patent publication filed January 29, 2002, along with diligence throughout and particularly to the filing date of

CERTIFICATE OF MAILING
37 CFR §1.8

I hereby certify, pursuant to 37 CFR §1.8, that I have reasonable basis to expect that this paper or fee (along with any referred to as being attached or enclosed) would be mailed or transmitted on or before the date indicated with the United States Postal Service with sufficient postage as first class mail on the date shown below in an envelope addressed to Mail Stop Missing Parts, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: June 29, 2005

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Jodie Davis
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February 26, 2002 of the present application. It is submitted that the declaration and exhibits evidence the present apparatus and method for monitoring administration and medical products to a patient, and that the rejection of claims based on each of these patents should be withdrawn.

Separate and apart from the matter of the enclosed 1.131 Declaration, and in addition thereto, it is respectfully submitted that the Examiner has erred in rejection of the present claims.

The Examiner rejects Claims 55-59 under Section 102 as being anticipated by Martucci, the Examiner stating that the reference includes "reading the RFID tag 28 associated with the medical product to obtain the data stored in the RFID tag when the medical product passes through an entrance to the patient's room." [Emphasis added]. There is no such disclosure at all in this patent publication. Martucci gives examples of readable formats as linear bar codes, 2-dimensional bar codes symboligies, other printed data encoding techniques, smart tag or RFID technology, magnetic stripe or tape, OCR, optical hologram, and the like. Thus, a disclosure is that the tag can be any one of these types, none of which is disclosed as being readable as the product passes through an entrance to the patient's room, and all but the RFID tag could not perform this operation. Thus, not only is there no disclosure of this technique, but also there would be no incentive to perform this step in the Martucci system or method.

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The Examiner rejects Claims 1-10, 30-38 and 62-70 under Section 103(a), contending that it would be obvious to combine Hickle with Martucci. In view of the infirmities in Martucci, and the differences in the system of Martucci versus components of Hickle, it is not seen how there would be any reasonable incentive to make the combination contended by the Examiner. Even then, there is nothing in Martucci disclosed for reading tags simultaneously, and the only logical result if the two can be combined, is that Martucci would include RFID tags but no system for simultaneously reading. In any event, the 1.131 Declaration further eliminates Martucci as a viable reference.

Claims 60-61 were rejected under Section 103(a) over Martucci, the Examiner recognizing that Martucci does not disclose a read pad, but says it would be obvious to use one. This is contrary to the teaching of Martucci who throughout the publication discloses a hand held device 22 for reading the medication data.

The Examiner rejected Claims 39 – 54 “under 35 U.S.C. 103(a) as being anticipated by Bui et al. . . . in view of Hickle” [emphasis added]. This rejection is not at all understood. In any event, Claims 39 – 45 include an antenna mounted in an entrance to the patient’s room for reading tags as the products pass through the entrance. There is no such disclosure in Bui or Hickle. Further, the Bui reference is obviated by the 1.131 Declaration. Rejected Claims 46 through 54 involve

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simultaneous reading of the RFID tags of which there is no disclosure in Bui, and further Bui is obviated by the 1.131 Declaration.

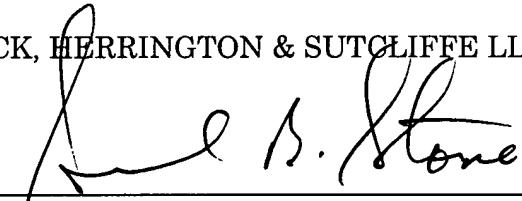
In view of the foregoing, it is respectfully submitted that presently pending claims 1-10 and 30-70 are allowable. Favorable reconsideration is requested.

The Commissioner is authorized to charge Orrick's Deposit Account No. 15-0665 for any fees necessary in connection with this response.

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP

By:


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Dated: June 29, 2005

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